



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220722-0161]

RIN 0648-BL40

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2022 Recreational Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This rulemaking proposes fishing year 2022 recreational management measures for Gulf of Maine cod and haddock. The measures are intended to ensure the recreational fishery achieves, but does not exceed, fishing year 2022 catch limits.

DATES: Comments must be received on or before **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0068, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter NOAA-NMFS-2022-0068 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

To review *Federal Register* documents referenced in this proposed rule, you can visit: <https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan>.

FOR FURTHER INFORMATION CONTACT: Kyle Molton, Fishery Management Specialist, (978) 281-9236.

SUPPLEMENTARY INFORMATION:

Background

The recreational fishery for Gulf of Maine (GOM) cod and GOM haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP). The multispecies fishing year starts on May 1 and runs through April 30 of the following calendar year. The FMP sets sub-annual catch limits (sub-ACL) for the recreational fishery each fishing year for both stocks. These sub-ACLs are a fixed proportion of the overall catch limit for each stock. The FMP also includes proactive recreational accountability measures (AM) to prevent the recreational sub-ACLs from being exceeded and reactive AMs to correct the cause or mitigate the effects of an overage if one occurs.

The proactive AM provision in the FMP provides a process for the Regional Administrator, in consultation with the New England Fishery Management Council, to develop recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. The provisions governing this action can be found in the FMP's implementing regulations at 50 CFR 648.89(f)(3).

The 2022 recreational sub-ACL proposed in Framework Adjustment 63 (87 FR 23482; April 20, 2022) for GOM cod is 192 mt and the 2022 recreational sub-ACL for GOM haddock is 3,634 mt, as set by Framework Adjustment 59 (85 FR 45794; July 30, 2020).

Using the proposed GOM cod and GOM haddock 2022 sub-ACLs and a peer-reviewed bioeconomic model developed by NMFS's Northeast Fisheries Science Center that predicts fishing behavior under different management measures, we estimated 2022 recreational GOM cod and haddock removals under several combinations of minimum sizes, slot limits, possession limits, and closed seasons. The bioeconomic model considers measures for the two stocks in conjunction because cod are commonly caught while recreational participants are targeting haddock, linking the catch and effort for each stock to the other. The bioeconomic model results suggest that measures for both GOM cod and haddock can be liberalized somewhat without the 2022 recreational fishery's sub-ACLs being exceeded. With any given model, however, there exists some level of uncertainty in the accuracy of model predictions. As in past years, we used preliminary data from the Marine Recreational Information Program (MRIP) for this fishing year. Incorporation of new waves, or data updates, may result in changes in model estimates. MRIP data can be uncertain and highly variable from year to year.

For each of the sets of management measures, 100 simulations of the bioeconomic model were conducted, and the number of simulations which yielded recreational mortality estimates under the sub-ACL was used as an estimate of the probability that the simulated set of measures will not result in an overage of the sub-ACL. All sets of measures analyzed resulted in model-estimated removals under the sub-ACL greater than 50 percent of the time. The results of the bioeconomic model runs were shared with the Council and its Recreational Advisory Panel and Groundfish Committee for review.

At its February 2022 meeting, the Council recommended a set of measures that would increase the minimum size for GOM cod from 21 inches (53.3 cm) to 22 inches (55.9 cm) and include no maximum size. The Council discussed options for GOM cod slot limits that would match those for Georges Bank cod included in Framework Adjustment 63 (proposed rule, 87 FR 23482; April 20, 2022). However, the Council did not recommend a maximum size for GOM cod because model runs suggested it was not necessary to adequately constrain catch. The minimum size requirements apply to all private recreational anglers and for-hire vessels not fishing under a groundfish day-at-sea or sector operations plan. The Council also recommended synchronizing the open season for GOM cod for both for-hire and private recreational modes, with a spring open season from April 1 – 14, and a fall open season from September 1 – October 7. The Council recommended increasing the GOM haddock possession limit from 15 fish to 20. The bag limit for GOM cod during open season would remain 1 fish per angler. Based on model runs, these measures are expected to result in catch of cod and haddock that would not exceed the sub-ACL for either stock (Table 1).

Table 1 -- Summary of the Status Quo and Proposed Measures, with Model Estimates of Catch and the Probability of Catch Remaining Below the sub-ACLs

	Haddock					Cod					
	Possession Limit	Minimum Size (inches)	Open season	Predicted Catch (mt)	% Simulations Under Haddock Sub-ACL	Possession Limit	Minimum Size (Inches)	Open Season (For Hire)	Open Season (Private)	Predicted Catch (mt)	% Simulations Under Cod sub-ACL
Status Quo Measures	15	17	May 1 - February 28, April 1 - 30	875	100	1	21	September 8 - October 7, April 1 - 14	September 15 - 30, April 1 - 14	116	100
Proposed Measures	20		May 1 - February 28, April 15 - 30	1020	100		22	September 1 - October 7, April 1 - 14	September 1 - October 7, April 1 - 14	146	84

We are proposing to implement the Council’s recommended recreational measures for the remainder of fishing year 2022. These measures are expected to adequately constrain total catch to prevent an overage of both the GOM cod and GOM haddock recreational sub-ACL’s, while increasing recreational fishing opportunities and harvest of the GOM haddock stock by the recreational and for-hire fleets. Synchronizing the open seasons for GOM cod is also prudent, because the longer for-hire season under status quo measures was previously established to offset the impacts of social distancing restrictions on for-hire businesses, which are no longer in place. Synchronized measures should also improve regulatory compliance by minimizing confusion among the angling public.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has made a determination that this proposed rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Assistant Administrator for Fisheries finds good cause to have a 15-day comment period in accordance with the Administrative Procedures Act and as provided for in the Magnuson-Stevens Act. This rulemaking proposes more liberal management measures for GOM haddock and GOM cod compared to status quo recreational management measures. The Northeast multispecies fishing year begins on May 1 of each year and continues through April 30 of the following calendar year. Further delaying final action on these proposed measures to allow for a longer comment period than the minimum 15-day amount allowed for by the Magnuson-Stevens Act would diminish the value to the public of increasing the haddock possession limit and the more liberal measures. Additional time for comment may unnecessarily negatively affect business planning for the for-hire segment of the fishery. This rulemaking is straightforward and proposes changes that were discussed during a series of public meetings. These are yearly measures that are familiar to and anticipated by fishery participants. Affected and other interested parties participated in the Council's process to develop this action that provides for extensive opportunity to comment about the measures and their impacts.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

For Regulatory Flexibility Act purposes only, NMFS established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned

and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts less than \$11 million for all its affiliated operations worldwide. A small for-hire recreational fishing business is defined as a firm with receipts of up to \$7.5 million. For purposes of this assessment, business entities have been classified into the SBA-defined categories based on which activity produced the highest percentage of average annual gross revenues from 2018-2020, the most recent 3-year period for which data are available. Ownership data identify all individuals who own fishing vessels. Using this information, vessels can be grouped together according to common owners. The resulting groupings were treated as a fishing business for purposes of this analysis. Revenues summed across all vessels in a group and the activities that generate those revenues form the basis for determining whether the entity is a large or small business.

As the for-hire owner is permitted and required to comply with these measures and can be held liable under the law for violations of the proposed regulations, for-hire business entities are considered directly affected in this analysis. Private anglers are not considered “entities” under the RFA.

For-hire fishing businesses are required to obtain a Federal charter/party multispecies fishing permit in order to carry passengers to catch cod or haddock. Limited access permit holders may also take passengers for-hire; however, most limited access permit holders do not take passengers for hire. Thus, for the purposes of this action, the affected businesses entities of concern are businesses that hold Federal multispecies for-hire fishing permits. While all business entities that hold for-hire permits could be affected by changes in recreational fishing restrictions, not all business that hold for-hire permits actively participate in a given year. Those who actively participate, *i.e.*, land fish,

would be the group of business entities that are affected by the regulations. Latent fishing power (in the form of unfished permits) has the potential to alter the impacts on a fishery, but it is not possible to predict how many of these latent business entities will participate in this fishery in fishing year 2022. The Northeast Federal landings database (*i.e.*, vessel trip report data) indicates that a total of 750 vessels held a multispecies for-hire fishing permit in 2020 (the most recent full year of available data). Of the 750 for-hire permitted vessels, only 190 actively participated in the for-hire Atlantic cod and haddock fishery in fishing year 2020 (*i.e.*, reported catch of cod or haddock).

Using vessel ownership information and vessel trip report data, it was determined that the 190 for-hire vessels actively participating in the fishery are owned by 179 unique fishing business entities. The vast majority of the 179 fishing businesses were solely engaged in for-hire fishing, but some also earned revenue from shellfish and/or finfish fishing. The highest percentage of annual gross revenues for all but 16 of the fishing businesses was from for-hire fishing.

Average annual gross revenue estimates calculated from the most recent three years (2018-2020) indicate that none of the 179 fishing business entities had annual receipts of more than \$3.8 million from all their fishing activities (for-hire, shellfish, and finfish). Therefore, all the affected fishing business entities are considered “small” by the SBA size standards and thus this action will not disproportionately affect small versus large for-hire business entities.

The measures proposed in this action are intended to increase opportunities for anglers to harvest GOM haddock and expand the season for GOM cod. These measures would allow party/charter operators greater opportunities to market trips to potential

customers, which is expected to have a positive economic impact. As a result, we expect the impact of these measures on impacted entities to be positive. Because the changes to the seasons and bag limits are relatively minor, the positive effect is not expected to be substantial. For these reasons, NMFS has determined that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: July 22, 2022.

Kimberly Damon-Randall,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.89, revise Table 1 to Paragraph (b)(1), Table 2 to Paragraph (c)(1)(i), and Table 3 to Paragraph (c)(2), to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) * * *

(1) * * *

Table 1 to Paragraph (b)(1)

Species	Minimum size		Maximum size	
	Inches	cm	Inches	cm
Cod:				
Inside GOM Regulated Mesh Area ¹	22	55.9	N/A	N/A
Outside GOM Regulated Mesh Area ¹	22	55.9	28	71.1
Haddock:				
Inside GOM Regulated Mesh Area ¹	17	43.2	N/A	N/A
Outside GOM Regulated Mesh Area ¹	18	45.7	N/A	N/A
Pollock	19	48.3	N/A	N/A
Witch Flounder (gray sole)	14	35.6	N/A	N/A
Yellowtail Flounder	13	33.0	N/A	N/A
American Plaice (dab)	14	35.6	N/A	N/A
Atlantic Halibut	41	104.1	N/A	N/A
Winter Flounder (black back)	12	30.5	N/A	N/A
Redfish	9	22.9	N/A	N/A

¹ GOM Regulated Mesh Area specified in § 648.80(a).

* * * * *

(c) * * *

(1) * * *

(i) * * *

Table 2 to Paragraph (c)(1)(i)

Stock	Open Season	Possession Limit	Closed Season
GB Cod	August 1-April 30	5	May 1-July 31
GOM Cod	September 1 – October 7 April 1 - 14	1	April 15 – August 31 October 8 – March 31
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1 - February 28 (or 29) April 1 - 30	20	March 1 – March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A

Pollock	All Year	Unlimited	N/A
N. Windowpane Flounder	CLOSED	No retention	All Year
S. Windowpane Flounder	CLOSED	No retention	All Year
Ocean Pout	CLOSED	No retention	All Year
Atlantic Halibut	See paragraph (c)(3)		
Atlantic Wolffish	CLOSED	No retention	All Year

* * * * *

(2) * * *

Table 3 to Paragraph (c)(2)

Stock	Open Season	Possession Limit	Closed Season
GB Cod	August 1-April 30	5	May 1-July 31
GOM Cod	September 1 – October 7 April 1 - 14	1	April 15 – August 31 October 8 – March 31
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1 - February 28 (or 29) April 1 - 30	20	March 1 – March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A

American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N. Windowpane Flounder	CLOSED	No retention	All Year
S. Windowpane Flounder	CLOSED	No retention	All Year
Ocean Pout	CLOSED	No retention	All Year
Atlantic Halibut	See Paragraph (c)(3)		
Atlantic Wolffish	CLOSED	No retention	All Year

* * * * *

[FR Doc. 2022-16137 Filed: 8/1/2022 8:45 am; Publication Date: 8/2/2022]